

**REMARKS/ARGUMENTS****A. Request for Clarification**

Applicants respectfully request clarification as to the following matters identified in the Office Action of January 28, 2004:

1. The Office Action states that the Office Action is responsive to an amendment filed on December 20, 2000. The applicants respectfully submit that it is their understanding that this application was filed on December 20, 2000 without a preliminary or other amendment. Applicants respectfully request clarification as to whether there is a record of such an amendment.

2. The Office Action further states at the "Applicant's arguments filed on 1/13/04 have been fully considered...". The Applicants however, have previously filed only one set of arguments in this matter. According to Applicants' records these arguments were filed on October 24, 2003. Applicants respectfully request clarification as to whether there is a record of such an argument filed on 1/13/04.

3. The Office Action further states at page 11 that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, this Office Action is made final. See MPEP s. 706.06(a)." However, the applicants have no record of having made any amendments. Thus, to the extent that new grounds for rejection are presented in the Office Action of January 28, 2004, the Applicants respectfully submit that the assertion of such new grounds for rejection in the absence of any amendments by the applicant falls within the exception stated in MPEP s. 706.06(a) and request withdrawal of the Final Rejection.

**B. Rejection of Claims under 35 U.S.C. 103:**

Claims 1-4, 9, 17-20 and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ubillos (US 6,486,896) in view of Sciammarella et al (US 5,983,369). Applicants respectfully traverse this rejection on grounds that the claims are not obvious in light of the references alone or in combination that there is no motivation to combine the references, and that the combined references would teach away from the claims.

Generally speaking, in certain embodiments, the present invention provides a user with a first graphical metaphor that represents a span of time over which all of pictures stored in a database were captured. Icons on the metaphor

indicate intervals of time in the span of time over which images in the database were obtained. The icons are proportionately sized to correspond to the number of images in each interval. The invention further provides a second display level triggered by activating one of the icons. The second display level comprises a second metaphor, and has second icons placed on the second metaphor for grouping the pictures represented by the activated first icon, said second icons being proportionately sized to correspond to the number of pictures captured for each grouping.

Accordingly, in the first display level, the invention provides a user with an intuitive single-glance understanding of the both the range of time encompassed by a database and the volume of image information in each interval of time. Further, the user can select one of the icons and see a second metaphor with second icons that group pictures from the activated first icon, said second icons being proportionately sized to correspond to the number of pictures for each grouping.

#### **I. Claim 1**

##### **1. Claim 1 is not obvious over the references.**

In rejecting claims under 35 U.S.C. 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and compare Stratoflex Inc. v. Aeroquip Corp., 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983). In so doing, the Examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 f.2d 281, 227 USPQ 657 (Fed. Cir. 1985); ASC Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 USPQ 929 (Fed. Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note In re Oetiker, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

In this matter factual basis does not support the conclusion of obviousness. In general, the method described in Ubillos includes providing a scalable scroll controller 11 corresponds to an area on a timeline 14. The user can search a database having contents arranged with respect to timeline 14 along the timeline by advancing scroll controller 11 along a slide path that is parallel to timeline 14.

The scalable scroll controller 11 includes scale controllers 17 and 18 that are adapted to allow a user to change the size of the scalable scroll controller 11. When the scalable scroll controller 11 is enlarged, the time scale used on timeline 14 is magnified. Thus, when scroll controller 11 is large the time scale is also large. In this way, by adjusting the size of scroll controller 11, the user automatically zooms in or out of a time scale.

Sciammarella et al. provides a method for categorizing a search result based upon a key word search. Each of the documents or images found in the search are displayed as a document icon. The document icons are sized based on the relevancy of the document to the words used in a key word search. In this way document icons corresponding to documents that have higher match values with respect to the key words of the search are larger in size than document icons corresponding to documents having lower match values. In addition, the relevance of a document is indicated by its' proximity to the keyword displayed on the screen: the closer the icons is displayed in the image to the keyword, the more relevant the document to that keyword. Thus, in essence Sciammarella et al. shows graphically representing single documents found in key word searches with differently sized icons based upon the relevance of the documents. In Sciammarella et al., each of the document icons is linked to the actual document so that the actual document can be viewed in greater detail.

Accordingly, the Office Action of January 28, 2004, concedes that neither the Ubillos nor Sciammarella et al. patents individually describe the limitations of claim 1 (see Office Action of January 28, 2004 at Pg. 11). However, the Office Action contends that claim 1 of the present invention would be obvious to one of ordinary skill in the art over the combination of these disparate references. As will now be shown, the conclusion of obviousness is not supported in at least the following respects:

**a. The Office Action fails to establish a factual basis for the conclusion that the combination teaches or suggests, "a plurality of first icons**

**placed on said first metaphor representing predefined temporal intervals said first icons being proportionality sized to correspond to the number of pictures in the predefined time interval."**

The Office Action offers inconsistent positions on the basis for the obviousness conclusion. In the Claim Rejections section of the Office Action of January 28, 2004, the Office Action contends that this limitation is found in Sciammarella et al. Specifically, the Office Action suggests that Sciammarella et al. teaches "an interface comprises: a plurality of icons that represent different interval of the database, the size of the icon corresponding to a value (col. 3, lines 13 - 19). However, col. 3, lines 13 - 19 of Sciammarella et al. state as follows:

*As shown in Fig. 2, images of those results (documents) having the highest relevance value are located at the top of the display screen. Results with lower relevance values are displayed toward the bottom of the screen in descending order. It is worth noting that matches with identical relevance are displayed on the same level on the screen.*

Thus, Sciammarella et al. describes displaying search results as icons having different sizes and locations based upon the relevance of the search result.

The plain language of the cited section of Sciammarella et al. does not teach or suggest a plurality of icons placed on a first metaphor representing the span of time over which pictures stored in the database were captured as is claimed. Accordingly for this reason alone the Office Action fails to establish a factual basis to support the legal conclusion of obviousness.

A new ground for rejection relevant to this point was set forth in the Response to Arguments section of the Office Action of January 28, 2004 which states that:

*Ubillos teaches a scroll bar is proportionally sized of the number of documents captured during a predefined temporal interval. (col. 2, lines 23-38) It is inherent that data saved within a year's time is more than the data saved within a month of a year.*

However, Col. 2, lines 22 - 38 of Ubillos state only that:

*A method and device for accessing a broad data field having a fine resolution is described. A default scale is provided and is represented and controlled by a scalable scroll bar with a width that is proportional to the scale that is being represented. The scale controls the magnification at which the user accesses and/or examines the data. At a selected magnification, there is a particular range of the data (from one point in the data to another point in the data) that is provided. The present invention allows the user to modify the scale, which also changes the displayed range to*

*be over different portions of the data field. The scale is varied by the user by manipulating the scalable scroll bar. Thus, the user may "zoom in" and "zoom out" to different portions of the data field. In addition, by moving the range to encompass different portions of the data field, the user can scan that portion of the data field.*

Thus, Col. 2, lines 22 – 38 of Ubillos fails to describe any of the following:

**a. a plurality of icons placed on a first metaphor**

There is nothing in Ubillos that suggests the placement of a plurality of icons on the first metaphor. If the Examiner considers the scalable scroll controller 11 to read on the term icon, it is clear that only one scroll controller 11 is provided and that scroll controller 11 is not placed on the first metaphor which the Office Action apparently considers to be the timeline 14. Ubillos provides a slidable scroll controller 11 that can be manually moved along an axis parallel to a displayed timeline 14 to allow a user to define the scale of time represented by timeline 14 in a convenient fashion by adjusting the size of the scalable scroll controller 11.

**b. a plurality of first icons placed on said first metaphor representing predefined temporal intervals**

The scalable scroll controller 11 represents a temporal interval the range of which and the position of which on a timeline 14 is manually defined by a user. If the user wishes to observe documents obtained in various other time periods along the timeline 14, the user must slide the scalable scroll controller 11 along the axis.

As is claimed in claim 1, a plurality of first icons is placed on said first metaphor representing predefined temporal intervals. The user can quickly explore an the pictures captured during an interval by clicking on the icon representing that interval as opposed to scrolling through various ranges of time demarcation as is shown in Ubillos.

**c. a plurality of first icons placed on said first metaphor representing predefined temporal intervals said first icons being proportionally sized to correspond to the number of pictures in the predefined time interval.**

In the Office Action of January 28, 2004, Sciammarella et al. is said to show icons that are sized based upon 'a value'. However, Sciammarella et al does

not suggest that document icons are organized using any "value" other than based upon a relevancy determination. Importantly, the stated purpose of Sciammarella et al. is to provide a user with a visual display of the relevance of the documents found in a search result using differently sized and positioned icons that represent the relative relevancy of the documents found in the search result. It destroys the reference to combine Sciammarella et al. in any combination where the purpose is to size icons that represent documents in some other way or based upon some other "value". Yet this is exactly what the Office Action tries to do when it substitutes the term "value" instead of relevancy.

Nothing in Sciammarella et al. teaches or suggests that the icons are to be sized based upon the number of documents in a time period.

In the Response to Arguments, a new and different argument is presented on this point as well. The new argument does not rely upon Sciammarella et al., specifically the Office Action states that "*Ubillos teaches a scroll bar is proportionally sized of the number of documents captured during a predefined temporal interval. (col. 2, lines 23-38)*" However, it has been shown that this cited portion of Ubillos describes a scalable scroll bar that is manually sized based upon the relative positioning of scale controllers. Thus, there is no factual basis supporting the assertion that Ubillos describes any icon that is sized proportionally corresponding to a number of documents captured during a predefined temporal interval.

Apparently conceding this deficiency the Office Action also offers the following new ground for rejection: *It is inherent that data saved within a year's time is more than the data saved within a month of a year.*

**This is not inherent.** In any given database, the data associated with one chronological year e.g. 1986 can be substantially less than the data stored in a month of a different year e.g. May 1987. This is common in many databases where records are incomplete for certain time periods. Similarly, many home photographers capture images when time and circumstances permit and may go years without capturing images while also capturing many images within days or weeks. However, the system of Ubillos requires that the scalable scroll controller 11 has the same size when timeline is at a scale of years and the same smaller size when timeline 14 is at a magnification of months – not withstanding the number of pictures associated with the particular months and years on the timeline.

Further, this argument makes it unclear which reference the Examiner contends shows a plurality of first icons placed on said first metaphor representing predefined temporal intervals said first icons being proportionally sized to correspond to the number of pictures in the predefined time interval. The document icons of Sciammarella et al. are automatically differently sized based upon relevancy, the single scalable scroll controller 11 of Ubillos has a size that is manually determined. Neither reference contains any suggestion of icons to that are proportionately sized to correspond to the number of pictures in a predefined time interval.

The Applicants accordingly request, for the purpose of appeal, clarification as to how the Examiner contends that these two references which teach apart on this point are to be combined to meet this limitation.

**d. At least a second display level constructed with the aid of decoded metadata and linked to said first display level and triggered by activating one of said first icons, said second display level comprising a second a second display level comprising a second metaphor and second icons placed on said second metaphor for grouping the pictures represented by the activated first icon.**

The Office Action of January 28, 2004, suggests that this is obvious in view of combination of Ubillos and Sciammarella et al. Specifically, Ubillos is said to show multiple levels of graphical metaphors as discussed in detail above and Sciammarella et al. is said to "[teach] an interface comprises: a plurality of icons that represent different interval of the database, thus size of the icon is corresponding to value (col. 3, lines 13-19); and each icon allows a user to "zoom in" for a closer examination of the data."

However, lines 13-19 of col. 3 of Sciammarella et al. state as follows:

*As shown in Fig. 2, images of those results having the highest relevance value are located at the top of the display screen. Results with lower relevance values are displayed toward the bottom of the screen in descending order. It is worth noting that matches with identical relevance values are displayed on the same level on the screen.*

As described above, Sciammarella et al. provides document icons that represent single documents, each document icon is sized based upon the degree to which the of the document that they represent is relevant to words used in a key word search. The cited section describes one way to arrange a plurality of such icons on a display so that more relevant documents are arranged for greater

visibility – on the same level of display. There is no discussion in Sciammarella et al. of the use of a second display level comprising a second metaphor and second icons placed on said second metaphor for grouping the pictures represented by the activated first icon.

Combining this arrangement with the timeline 14 of Ubillos still does not meet the above-cited limitations. At best the combination would lead one of ordinary skill in the art to present the first icons of Sciammarella et al. along a timeline 14 of Ubillos. However, this combination would not provide a plurality of document icons that are activatable to trigger a second display level having a second graphical metaphor and second icons placed on said second metaphor for grouping the pictures. Instead, one would simply see the documents represented by the document icons.

**e. The combination further fails to teach or suggest that the second icons are proportionately sized corresponding to the number of pictures captured for each grouping.**

Sciammarella et al. does not describe any correlation between the size of a second icon and the number of images captured for a grouping of images represented by the second icon. The mere suggestion that the size of the first icons displayed by Sciammarella et al. varies with respect to “a value” is not dispositive. As noted above, it destroys the Sciammarella et al. reference to use any factor other than a relevancy score based on a key word search of the document to determine the size of the document icon described in Sciammarella et al.

Sciammarella et al. shows document icons. Further, Sciammarella et al. also shows that such document icons have different sizes based upon relevancy and each document icon represents only one document. The Office Action contends that each document icon allows a user to “zoom in” for a closer examination of the data” and that Sciammarella et al. teaches the object is linked to another object. However, what is actually taught is that by clicking on the icon representing an object the object itself can be viewed.

Further, even the Examiner’s language concedes that this merely indicates that by clicking on ONE icon of Sciammarella et al. that represents a document ONE document itself can be viewed or zoomed in upon. There is no teaching in Sciammarella et al. that any second icon can represent a group of images.



Further, there is no teaching in Sciammarella et al. that any second icon can be sized based upon the number of documents in a group.

**2. The cited motivation for the combination of references fails.**

The Office Action of January 28, 2004 states that "Sciammarella et al. provided a reason for combining its feature with Ubillos' method (Col. 1, lines 64-65), which is to provide user with relevancy of the data visually".

However, Sciammarella et al. provides a visual indication of which documents are most relevant without any assistance from the time based system described in Ubillos. The cited lines of Sciammarella et al. state only that it is an object of the invention "to provide a graphical display of search results clearly indicating that two or more "hits" are equally relevant". This desired object is provided by Sciammarella et al. alone. Accordingly, the stated motivation for combining the references fails as there is no need to combine the references to achieve the stated motivation providing a visual indication of relevancy.

Further, as noted above, at the first display level the present invention provides a user with a visual indication of the number of images captured within fixed time intervals on a first graphic metaphor representing the span of time over which pictures stored in the database were captured. This is not a visual indication of relevancy as defined in Sciammarella et al. Relevancy is defined in Sciammarella as the degree to which a search engine determines that document uses words that are related to word used in a user provided listing of key words (See Sciammarella et al. at Col 1, lines 5 - 30). Thus, even if there were some motivation to combine the references to achieve a greater ability to visually indicate the relevancy of individual documents, such a motivation would not suggest the invention as any such combination would provide a visual indication of relevancy which teaches apart from the limitations of claim 1.

**3. Even if there is a motivation to combine the references the combination would teach away from claim 1.**

Such a combination would, at best, show timeline 14 having a first time scale based upon the manually determined size of the scalable scroll controller 11, and would display document icons along timeline 14 that are sized in proportion to the relevance of the documents that the document icons represent.

The user could move along the timescale using the scaleable scroll controller 11, and could view the documents associated with the sized document icons by clicking on them. The user could adjust the scale of time on timeline 14 by adjusting the size of the scroll controller. Such a combination requires the scaleable scroll bar which is not claimed in the present claim. Further, the combination fails wholly to provide: a) a plurality of first icons that correspond to a predetermined time; b) first icons sized corresponding to the number of pictures in the predetermined time; c) at least a second display level constructed with the aid of decoded metadata and linked to said first display level and triggered by activating one of said first icons, said second display level comprising a second a second display level comprising a second metaphor and second icons placed on said second metaphor for grouping the pictures represented by the activated first icon; d) second icons that are proportionately sized corresponding to the number of pictures captured for each grouping.


Accordingly, claim 1 and all claims that depend upon claim 1 are believed to be allowable over the cited combination

Claim 17 stands rejected for the same reasons stated with respect to claim 1. Accordingly, claim 17 and all claims that depend upon claim 17 are believed to be in a condition for allowance for the same reasons stated with respect to claim 1.

### CONCLUSION

It is respectfully submitted, therefore, that in view of the above amendments and remarks, that this application is now in condition for allowance, prompt notice of which is earnestly solicited.

Respectfully submitted,



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